



May 13, 2025

Office of the Clerk
United States Court of Appeals for the First Circuit
John Joseph Moakley U.S. Courthouse
1 Courthouse Way, Suite 2500
Boston, MA 02210

Complaint of Judicial Misconduct

Dear Chief Judge Barron:

America First Legal Foundation (“AFL”) respectfully files this complaint pursuant to Rule 6 of the First Circuit Local Rules for Judicial Conduct and Judicial-Disability Proceedings against Judge John J. McConnell, Jr, Chief Judge of the District of Rhode Island for violations of multiple canons of the Code of Conduct for United States Judges and pursuant to the Judicial Conduct and Disability Act of 1980. As more fully described below, this complaint for judicial misconduct on the part of Judge McConnell surrounds his failure to recuse himself from overseeing *New York v. Trump*,¹ despite a plain conflict of interest. AFL first publicized Judge McConnell’s problematic decades-long association with the charitable organization Crossroads Rhode Island on March 5, 2025.² Since then, he has failed to recuse himself as he is obligated pursuant to Canon 3 of the Code of Conduct for U.S. Judges and federal law. *See, e.g.*, 28 U.S.C. § 455(a).

AFL’s investigation has also uncovered further facts that suggest that Judge McConnell’s governance of Crossroads Rhode Island may have violated Canons 2 and 4 of the Code of Conduct for U.S. Judges. Additional investigation is necessary and appropriate to determine the extent of this mismanagement and the resultant violations, if any, of Canons 2 and 4.

Introduction

AFL began investigating Judge McConnell because of concern that he may have had a conflict of interest as the presiding judge in a case involving a challenged federal grant freeze despite having a longstanding—and possibly ongoing—affiliation with a

¹ No. 1:25-cv-00039 (D.R.I. Jan. 28, 2025).

² *America First Legal Exposes Major Conflict of Interest for Federal Judge Blocking President Trump’s Spending Freeze, Demands Immediate Recusal*, AM. FIRST LEGAL (Mar. 5, 2025), <https://perma.cc/HR44-YTC6>.

non-profit entity that has received \$128 million in government funding during Judge McConnell's tenure on its Board of Directors. Based on the evidence AFL has since uncovered, there is strong reason to suspect that Crossroads Rhode Island ("Crossroads"), on whose Board of Directors Judge McConnell sat for two decades and may well continue to sit to this day, stands to receive millions of dollars in government funds because of Judge McConnell's ruling. This represents a conflict of interest, creates an appearance of impropriety, and suggests an absence of neutrality on the Judge's part in violation of applicable canons of judicial conduct. AFL's research uncovered additional facts that further bring into question Judge McConnell's fitness to serve as a United States Judge. Thus, AFL brings this matter to your attention and respectfully urges that an investigation be initiated promptly and that appropriate action be swiftly taken to restore the integrity of the judicial office.

I. There is a significant and problematic nexus between Judge McConnell's obligations as judge and his long-time involvement and fiduciary obligations to Crossroads.

A. Background & court proceedings.

Judge McConnell is currently presiding over the case *New York v. Trump*, No. 1:25-cv-039 (D.R.I. Jan. 28, 2025) ("*New York v. Trump*"). The plaintiffs, twenty-two states and the District of Columbia, filed the lawsuit seeking declaratory and injunctive relief against eight of the Trump Administration's executive orders and a January 27, 2025, OMB Directive for Heads of Executive Departments and Agencies titled "Temporary Pause of Agency Grant, Loan, and Other Financial Assistance Programs."³ In order to "increase the impact of every federal taxpayer dollar,"⁴ the Directive instructed federal agencies to pause certain funding and directed them to "identify and review all Federal financial assistance programs and supporting activities consistent with the President's policies and requirements."⁵

Following a hearing on January 31, 2025, Judge McConnell issued a Temporary Restraining Order ("TRO") ordering the restoration of payments to the plaintiffs.⁶ Judge McConnell acknowledged that while a TRO is an "extraordinary and drastic remedy," he justified the order under the theory that "the States rely on federal funds to provide and maintain vital programs and services."⁷

³ OFF. OF MGMT. & BUDGET, EXEC. OFF. OF THE PRESIDENT, OMB MEMORANDUM No. M-25-13, MEMORANDUM FOR HEADS OF EXECUTIVE DEPARTMENTS AND AGENCIES (Jan. 27, 2025), <https://perma.cc/ML2N-NPNT>. The Administration rescinded the Memorandum on January 29, 2025, following a stay by another court on January 28 preventing the funding pause from taking effect.

⁴ *Id.* at 1.

⁵ *Id.*

⁶ TRO, *New York v. Trump*, ECF No. 50.

⁷ *Id.*, at 3, 7.

On February 7, the Plaintiffs filed a Motion for Preliminary Injunction.⁸ On March 6, the Court granted the Preliminary Injunction.⁹ On March 24, the plaintiffs moved to enforce the injunction; Judge McConnell has not yet ruled on the motion.¹⁰ Previously, on February 10, 2025, the Court granted the Plaintiffs’ Motion for Enforcement of the Temporary Restraining Order.¹¹ In issuing that order, the Court took the highly unusual step of threatening to hold senior Executive Branch officials in criminal contempt of court if they did not comply with his order.¹²

Following Judge McConnell’s decision to halt President Trump’s temporary spending freeze, AFL uncovered evidence that Judge McConnell has a *personal interest* in the litigation’s outcome and, therefore, has an improper bias that should disqualify him from presiding over the matter. AFL has previously shared the results of our preliminary investigation publicly and now asks that the First Circuit take action.¹³

Specifically, and as more fully described below, when Judge McConnell ordered the federal government to resume payments to the plaintiffs, he ensured that an organization on whose board he has sat and to which he has owed a fiduciary duty for nearly two decades would continue receiving tens of millions of dollars from the federal government. This is a plain violation of Canon 3 and § 455(a).

B. Judges must be impartial and must not give even the appearance of impropriety.

Judges must be impartial and must avoid even the appearance of impropriety. The controlling Supreme Court precedent is clear. “An insistence on the appearance of neutrality is not some artificial attempt to mask imperfection in the judicial process, but rather an essential means of ensuring the reality of a fair adjudication. Both the appearance and reality of impartial justice are necessary to the public legitimacy of judicial pronouncements and thus to the rule of law itself.”¹⁴ Therefore, the law imposes an affirmative recusal obligation in cases where a reasonable person could draw an inference of bias. “Any justice, judge, or magistrate judge of the United States *shall* disqualify himself in any proceeding in which his impartiality *might* reasonably

⁸ Pl.’s Mot. for Prelim. Inj., *New York v. Trump*, ECF No. 67.

⁹ Mem. & Order, *New York v. Trump*, ECF No. 161.

¹⁰ Pl.’s Mot. for Enf’t of Prelim. Inj., *New York v. Trump*, ECF No. 168.

¹¹ Order, *New York v. Trump*, ECF No. 96.

¹² See, e.g., Peter Nicholas & Matt Dixon, *White House Officials Bristle as the Courts Throttle Parts of Trump’s Agenda*, NBC NEWS (Feb. 10, 2024), <https://perma.cc/4EEK-XGY3> (“reminding Trump and his top officials in stark terms that ‘those who make private determinations of the law and refuse to obey an order generally risk criminal contempt.’”).

¹³ America First Legal (@America1stLegal), X (Feb. 15, 2024), <https://perma.cc/M9LT-7FWQ>.

¹⁴ *Williams v. Pennsylvania*, 579 U.S. 1, 15–16 (2016) (Kennedy, J.).

be questioned.”¹⁵ Further, he shall disqualify himself where, “He knows that he, individually or as a fiduciary ... has a financial interest in the subject matter in controversy ... or *any* other interest that *could* be substantially affected by the outcome of the proceeding.”¹⁶

The Code of Conduct for United States Judges sets forth the ethical standards applicable to which a judge must adhere when exercising his or her official duties and outside activities.¹⁷ Canon 2 of the Code provides, “A Judge should avoid impropriety and the appearance of impropriety in all activities.”¹⁸ The commentary to Canon 2 is instructive: “A judge must expect to be the subject of constant public scrutiny and accept freely and willingly restrictions that might be viewed as burdensome by the ordinary citizen.”¹⁹

The Canons of Judicial Conduct also regulate Judge McConnell’s extrajudicial activities; “A judge may engage in extrajudicial activities, including ... charitable ... activities. However, a judge should not participate in extrajudicial activities that detract from the dignity of the judge’s office, interfere with the performance of the judge’s official duties, [or] reflect adversely on the judge’s impartiality.”²⁰

In the event the Canons are violated,²¹ a person may file a complaint alleging the same in accordance with the Judicial Conduct and Disability Act of 1980, which permits, “Any person alleging that a judge has engaged in conduct prejudicial to the effective and expeditious administration of the business of the courts” to “file with the clerk of the court of appeals for the circuit a written complaint containing a brief statement of the facts constituting such conduct.”²²

¹⁵ See Disqualification of justice, judge, or magistrate judge, 28 U.S.C. § 455(a) (emphasis added), <https://perma.cc/55KL-G557>.

¹⁶ *Id.* at § 455(b)(4) (emphasis added).

¹⁷ CODE OF CONDUCT FOR U.S. JUDGES Canon 3(c) (JUD. CONF. OF THE U.S., amended 2019).

¹⁸ JUD. CONF. OF THE U.S., *supra* note 17, Canon 2.

¹⁹ *Id.* Canon 2A cmt.

²⁰ *Id.*, Canon 4.

²¹ While we analyze this conduct under Canons 2 and 4, the facts also support a finding that Judge McConnell violated Canon 1 which requires judges to “Uphold the Integrity and Independence of the Judiciary” by “enforce[ing] high standards of conduct.” JUD. CONF. OF THE U.S., *supra* note 17, Canon 1.

²² Pub. L. No. 96-458, 94 Stat. 2035 (1980) (codified at 28 U.S.C. § 351, *et seq.*).

C. Judge McConnell has extensive ties to Crossroads Rhode Island, including serving on its Board of Directors for eighteen years, owing fiduciary obligations to the organization.

Crossroads Rhode Island is a Rhode Island-incorporated charity founded in 1894.²³ It purportedly provides programs and services ranging from operating homeless shelters to re-entry support for convicts.²⁴ It also has for-profit subsidiaries.²⁵ Judge McConnell was first appointed to the Board of Directors of Crossroads in 2006. Seven years later, in 2013, he was appointed to the federal bench, which was seen at the time as a controversial pick by the Obama Administration, requiring multiple nominations.²⁶

IRS regulations require that all 501(c)(3) tax-exempt organizations file an annual Form 990.²⁷ Part VII of the Form 990 requires organizations to disclose their “officers, directors, trustees, key employees, and highest compensated employees.”²⁸ Judge McConnell has appeared as a director on Crossroads’ Form 990 beginning in 2006 and in every filing through at least 2023.²⁹ For over a decade, between 2011 and 2021, Judge McConnell was reported as Crossroads’ “Chair,” after which he was listed as “chair-emeritus, The Honorable John J. McConnell, Jr. U.S. Courthouse” on the Crossroads website as recently as March 2025.³⁰ In fact, until AFL exposed this connection, Judge McConnell remained listed as “chair-emeritus” on the Crossroads website, after which time the entire section titled “Board & Leadership” under the “About Us” tab disappeared.³¹ Nevertheless, Crossroads’ most recent Form 990 listed McConnell as a “Director.”³² While further facts are necessary to determine whether

²³ *History & Timeline*, CROSSROADS RHODE ISLAND, <https://perma.cc/E9P5-G6JE>; *Entity Summary: Crossroads Rhode Island (No. 000030273)*, R.I. DEPT OF STATE, <https://perma.cc/3MVJ-58YL>.

²⁴ *Id.*

²⁵ See § II(B), *infra*.

²⁶ Bill Mears, *Controversial Judicial Nominee Clears Key Senate Confirmation Hurdle*, CNN (May 4, 2011), <https://perma.cc/G8E4-G6DJ>. See also Manu Raju & Scott Wong, *Judicial Nominee’s Donations Draw Ire*, POLITICO (June 23, 2010), <https://perma.cc/DHQ3-SKCW> (discussing nominee McConnell, “whose family donated nearly \$700,000 to Democratic candidates and causes, including thousands of dollars to the two Rhode Island senators who recommended him for the job”).

²⁷ See generally *Instructions for Form 990 Return of Organization Exempt From Income Tax*, INTERNAL REVENUE SERV. (2024), <https://perma.cc/Z6NX-M4JN>.

²⁸ *Id.*

²⁹ See, Crossroads Rhode Island, 2006 Return of Organization Exempt From Income Tax at 26, (Form 990) (2007), <https://perma.cc/NU57-TN4X>; Crossroads Rhode Island, 2023 Return of Organization Exempt From Income Tax at Part VII § A, (Form 990) (2024) (hereinafter “2023 990”), <https://perma.cc/ZY6R-XHCK>. The 2024 Form 990 is not yet due and therefore is not available.

³⁰ See, e.g., Crossroads Rhode Island, 2021 Return of Organization Exempt From Income Tax at Part VII § A, (Form 990) (2022), <https://perma.cc/TVT3-4NPR>.

³¹ *Board and Leadership*, CROSSROADS RHODE ISLAND, <https://perma.cc/T3BU-XGQ9> (archived Feb. 12, 2025).

³² *2023 Board and Leadership, 2023 Annual Report*, CROSSROADS RHODE ISLAND, <https://perma.cc/WE7G-M9B4>.

this formal affiliation continues through today, Judge McConnell’s sustained involvement with and Board presence on Crossroads must be examined regardless of whether he continues to sit on the Crossroads’ Board. In other words, despite whether this formal relationship remains, there seems to be little doubt that Judge McConnell continues to have a significant interest in Crossroads, thereby calling into question his ability to be unbiased and neutral.

Rhode Island law states that directors of non-profit corporations hold fiduciary duties to the organization “in good faith” and “with the care an ordinarily prudent person in a similar position would exercise under similar circumstances.”³³ Specifically, they must act in the manner they “reasonably believe[] to be in the best interests of the corporation.”³⁴ Therefore, in addition to the loyalty that naturally flows from a twenty-year affiliation with an organization,³⁵ Judge McConnell’s role as a board member triggers mandatory statutory obligations to act in Crossroads’ interests. To this point, the judicial canons explicitly warn that, “A judge’s obligation under this Code and the judge’s obligation as a fiduciary may come into conflict.”³⁶

D. Crossroads receives millions of federal dollars that it may lose if the defendants prevail in *New York v. Trump*.

Rhode Island, one of the plaintiff States in *New York v. Trump*, receives significant funding from the federal government, including from the U.S. Departments of Agriculture and Health and Human Services. Rhode Island, in turn, awards funds to non-government organizations (“NGOs”) in its state. State awards of federal money to NGOs allow them to “provide and maintain [the] vital programs and services” at the heart of the plaintiffs’ case.³⁷

Publicly available federal government records reveal that over the last twelve years, Rhode Island listed Crossroads as a specifically designated state and local government unit sub-awardee 155 times, for a total of \$18.7 million.³⁸ This is in addition to more than \$15.4 million received directly from the Federal Government in 88 grants since 2010, where Crossroads was listed as the prime awardee.³⁹ Crossroads’ annual audits show significantly more federal funding flowing through Rhode Island’s state

³³ 7 R.I. GEN. LAWS § 7-6-22(b).

³⁴ *Id.* at § 22(b)(3).

³⁵ See Dan McGowan, *What Judge McConnell Has Learned While Leading the Crossroads Rhode Island Board*, BOSTON GLOBE (April 25, 2022), <https://perma.cc/P2RN-RYDT>.

³⁶ JUD. CONF. OF THE U.S., *supra* note 17, Canon 4E cmt.

³⁷ TRO, *supra* note 6, at 9.

³⁸ USASPENDING, *Assistance Subawards: Crossroads Rhode Island* (VMJWKJY8PMZ4), <https://perma.cc/J947-K9PN>.

³⁹ USASPENDING, *Assistance Prime Awards: Crossroads Rhode Island* (VMJWKJY8PMZ4), <https://perma.cc/95LW-6JRQ>.

and local governments.⁴⁰ Moreover, State grant records show that Crossroads has already received \$4.5 million in fiscal year 2025 from the State of Rhode Island; much of which is likely pass-through funding from the Federal government.⁴¹

Indeed, Crossroads is heavily reliant on government funding. In 2023, it reported government grants as responsible for \$18.6 million of revenue, 64.7% of its total revenue of \$28.78 million.⁴² In fact, in that year alone, Crossroads reported over \$11 million dollars from the Department of the Treasury flowing through the State of Rhode Island and the City of Providence.⁴³ In total, AFL found that in the years of 2006 through 2023, Crossroads reported receiving over \$128 million of government money, including \$42 million from 2020 to 2023 alone.⁴⁴

Therefore, the ultimate ruling in *New York v. Trump* is of considerable interest to Crossroads Rhode Island. Upholding the injunction and requiring that funding flows means Crossroads continues to receive large government subsidies. Conversely, should the Trump Administration prevail, Crossroads will lose a substantial portion of its funding, thereby jeopardizing the organization's viability.

E. Judge McConnell was required to recuse himself, and his failure to do so impugns his fitness for the federal bench.

For nearly two decades, Judge McConnell has continuously owed a fiduciary duty to a non-profit entity that receives a substantial amount of federal funds, both directly and via flow-through from the state of Rhode Island. He sat on this non-profit board and was later elected chair, a position he held for a decade. He later held the prestigious title of chair-emeritus. Whether he continues to formally sit on the Crossroads board is only of nominal interest. Judge McConnell is, if nothing else, emotionally invested in Crossroads. Any person who has had such a sustained and involved position with any organization would naturally have an actual interest in its continued viability. Judge McConnell must know that his ruling in *New York v. Trump* has sustained Crossroads to date, and his final ruling could either keep Crossroads in business or jeopardize its continued existence. It is hard to imagine a fact pattern that better illustrates the appearance of—if not actual—impropriety.

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⁴⁰ KAHN, LITWIN, RENZA & CO., *Crossroads Rhode Island And Subsidiaries Consolidated Financial Statements and Supplementary Information Year Ended December 31, 2023* (2024) (hereinafter “2023 Audit”), <https://perma.cc/Z2BB-FG7L>.

⁴¹ *Expenditures by Payee for Fiscal Year (FY) 2025: Crossroads Rhode Island*, STATE OF RHODE ISLAND OPEN GOVERNMENT TRANSPARENCY, <https://perma.cc/WR7G-89DS>.

⁴² 2023 990, *supra* note 29, at Part VIII.

⁴³ 2023 Audit, *supra* note 40, at 33.

⁴⁴ America First Legal (@America1stLegal), X (Feb. 16, 2025 3:46 PM), <https://perma.cc/C3RH-AA5Y>.

As Justice Kennedy stated, “Both the appearance and reality of impartial justice are necessary to the public legitimacy of judicial pronouncements and thus to the rule of law itself.”⁴⁵ Judge McConnell’s insistence on remaining the judge in this case contradicts more than 1,700 years of judicial ethics precedent and current United States law and canons of judicial conduct.⁴⁶

The First Circuit has an obligation to investigate and preserve the integrity of the rule of law.

II. Judge McConnell oversaw Crossroads during a time of questionable governance when there were several transactions involving a fellow Board member.

In addition to Judge McConnell’s potential conflict of interest as presiding judge in *New York v. Trump* set forth above, AFL has uncovered additional facts that appear to bear directly upon Judge McConnell’s judgment, character, and fitness to be a federal judge. Specifically, the evidence highlighted below and in the attached Appendix suggests that there was grossly inadequate oversight of corporate activities during Judge McConnell’s tenure on the Crossroads Board to support this concern. Further investigation is necessary to determine if Judge McConnell’s actions have violated Canons 2 and 4.

In 2020 and 2022, for example, Judge McConnell apparently was either not aware of or turned a blind eye to financial transactions that occurred during the time he was responsible for overseeing Crossroads’ financial matters. Specifically, during these years, Crossroads paid an inflated amount to purchase two real estate parcels from a sitting Board member with a well-publicized history of public corruption scandals in the state. In all cases, the purchase price of each real estate parcel was at a price far above the property’s fair market value. While the 2020 purchase was included in Crossroads 2020 Form 990, the 2022 real estate purchase went undisclosed to the IRS.

Additionally, it appears that Crossroads pays out substantial sums from its for-profit low-income housing subsidiaries to unidentified “investors.” During the year 2020, for example, a year in which Judge McConnell was in his ninth year as Board Chair, Crossroads failed an independent financial audit that found it lacked internal controls. Finally, despite its eight-figure annual operating budget and “who’s who”⁴⁷

⁴⁵ *Williams*, 579 U.S. at 15–16.

⁴⁶ See *Williams*, 579 U.S. at 8–9; *Arnett v. Kennedy*, 416 U.S. 134, 195 (1974) (quoting *Bonham’s Case*, 8 Co. 114a, 118a (1610)); *Calder v. Bull*, 3 U.S. 386, 388 (1798); see also CODE JUST. 3.5.1 (Valens, Gratian, & Valentinian 375/378).

⁴⁷ Note that beyond Judge McConnell, Crossroads’ Board of Directors has included politically connected individuals such as former U.S. Secretary of Treasury Gina Romando, U.S. Rep. Seth Magaziner, Treasurer of Rhode Island James Diossa, and many senior executives of various corporations, banks, academic, and religious institutions in Rhode Island.

Board of Directors, public reports reveal appalling living conditions at the homeless shelters owned and operated by Crossroads.

A. During Judge McConnell’s tenure, Crossroads purchased properties at inflated values from a board member previously connected with public corruption scandals.

When a tax-exempt organization files its IRS Form 990, it must disclose transactions, especially with closely related parties. This includes its board members.⁴⁸ One member of the Board of Directors, Mr. Matthew Marcello (“Marcello”), served on the Board of Crossroads from 2017 through at least 2023.⁴⁹

On its Form 990 for 2020, during the decade Judge McConnell was Board Chair, Crossroads disclosed it had purchased real estate in Providence, Rhode Island, from a member of the organization’s board. Specifically, Crossroads purchased a building located at 371 Pine Street from Hotel Associates, LLC, a Rhode Island corporation owned by Marcello, for \$700,000.⁵⁰ At the time of sale, however, 371 Pine had an assessed value of \$410,800.⁵¹ Under Rhode Island law, “all property subject to taxation” is “assessed at its full and fair cash value.”⁵² Crossroads, thus, purchased 371 Pine from one of its board members for \$289,200 (70.39%) above its fair market value.

This practice was repeated in January 2022 when Crossroads paid \$850,000 to Hotel Associates for another property located at 94 Summer Street.⁵³ At the time of this transaction, the assessed value of 94 Summer was \$254,700.⁵⁴ Thus, Crossroads purchased the Summer Street property from Marcello for \$595,300, or 233.7%, above the property’s assessed value.⁵⁵ This transaction was not reported on Crossroads’ Form 990 for 2022 or any subsequent filing to date. Providence public land records confirm, however, that Marcello’s Hotel Associates conveyed both properties to Crossroads via warranty deed.

Beyond the fact that Judge McConnell, as Chair, should have stopped the organization from buying properties from a sitting board member at prices that far exceed the

⁴⁸ INTERNAL REVENUE SERV., *supra* note 27.

⁴⁹ *See, e.g.*, 2023 990, *supra* note 29.

⁵⁰ Crossroads Rhode Island, 2020 Return of An Organization Exempt From Income Tax at Sched. L p. 2 (Form 990) (2021), <https://perma.cc/CN74-BSZA>. (The filing stated, “The organizations [sic] decision to purchase the property was based on many factors unrelated to the relationship with its board member.” It does not elaborate further.) *See also* City of Providence, R.I., Land Book 12845, 110–12, <https://perma.cc/7MP9-PA5S> (warranty deed).

⁵¹ 371 Pine St, City of Providence, R.I., Tax Assessment Records, <https://perma.cc/P93T-QJQ5>.

⁵² 44 R.I. GEN. LAWS § 44-5-12.

⁵³ City of Providence, R.I., Land Book 13434, 268–69, <https://perma.cc/XZJ4-B6G4>.

⁵⁴ 94 Summer St, City of Providence, R.I., Tax Assessment Records, <https://perma.cc/79JV-HLRB>.

⁵⁵ Of note is that Google Earth shows that prior to its acquisition by Crossroads, this address had been a parking lot since at least 1995. Historical Imagery (March 29, 1995), 94 Summer St, Providence, R.I., GOOGLE EARTH, <https://perma.cc/7VYB-E44D>.

fair market value of each, the identity of the board member involved is also important. Since the 1990s, Marcello has been publicly linked to public corruption and embezzlement scandals, including one in which the former Rhode Island Governor Edward DiPrete, pled guilty to accepting bribes from Marcello's businesses in exchange for state leases at Marcello-owned buildings.⁵⁶ In fact, the properties—later sold to Crossroads—were the exact same properties at issue in the scandal that took down the former governor. While Marcello's actions were his own, it raises the question of whether the Crossroads purchases of Marcello's properties were appropriate or, at the very least, properly scrutinized by the Crossroads Board of Directors.⁵⁷

As Chair of the Board at a time when the corporate entity was purchasing real estate from a Board member at a significantly inflated value, Judge McConnell had statutory and fiduciary obligations to review the terms of the purchases, including of the assessed property values, to confirm the legitimacy of the transactions. Indeed, his position required that he exercise appropriate stewardship of corporate funds, a significant portion of which come from government funds. It is appropriate to determine whether Judge McConnell exercised his affirmative duty to fully vet the transactions, especially in light of Marcello's history of public corruption charges involving land transactions. Judge McConnell similarly held the responsibility and duty to review IRS filings, and, therefore, it is appropriate to determine whether he was aware that Crossroads filed an incomplete Form 990 that failed to include the Summer Street purchase.

B. Crossroads' for-profit subsidiaries funneled substantial profits to unidentified "investor partners."

Despite its non-profit status, Crossroads set up several for-profit subsidiaries for the purpose of owning and distributing profits from low-income and middle-income housing developments. The structure of these ventures is detailed in its annual audits.⁵⁸ Briefly, Crossroads' wholly owned for-profit subsidiaries serve as the sole general partner of a limited partnership. This limited partnership, in turn, owns housing projects. The partnership then contracts back with Crossroads for "property management services," which allows Crossroads to control operations at every level.

Crossroads has at least four such subsidiaries that serve as the sole general partner of a limited partnership.⁵⁹ In three of the four limited partnerships, the for-profit

⁵⁶ Caranci & Black, *infra* note 73.

⁵⁷ Crossroads operates a homeless shelter in a building that was part of the lease obtained through bribery scheme. Tracy Breton, *Judge Orders R.I. To Pay Rent, For Now, on Controversial Offices*, PROVIDENCE J., May 20, 1994, at B12.

⁵⁸ See 2023 Audit, *supra* note 40, at 8–10.

⁵⁹ *Id.* (NK Housing, Inc. is the general partner for Kingstown Crossings, L.P.; NK Housing II, Inc. is the general partner for Kingstown Crossings II, L.P.; TA Housing, Inc. is the general partner for Travelers Aid Housing, L.P.; and Summer Street Housing I, Inc. is the general partner for Summer Street Housing Partners I, L.P.).

subsidiary of Crossroads “is the sole general partner, and owns a 0.01% general partnership interest.” In contrast, “the remaining 99.99% interest represents a limited partnership interest owned by an unrelated party.”⁶⁰ The audits do not offer any additional information about the limited partner. Similarly, there are no publicly available formation documents for these partnerships that identify the limited partner.⁶¹ While the audit does provide some additional information about how partnership profits are distributed,⁶² the audits and filings fail to identify either the investor limited partner or the special limited partner.⁶³

In 2021, the last year that Judge McConnell served as Board Chair, Crossroads’ audits reported more than \$113,000 distributed as profits from subsidiary partnerships.⁶⁴ There is an alarming lack of information regarding these entities. It appears, however, that Crossroads operates these housing projects, presumably with federal assistance, as profits are diverted to some unknown investor.⁶⁵

C. Crossroads’ 2020 audit found a material lack of internal controls

Crossroads’ 2020 independent audit found flaws in the organization’s internal controls. This audit, conducted in the ninth year of Judge McConnell’s decade-long tenure as Chair, and his fourteenth year on the Crossroads board, found “a deficiency in internal control ... that [the auditors] consider to be a material weakness.”⁶⁶

The auditors clarified that:

A deficiency in internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent, or detect and correct, misstatements on a timely basis. *A material weakness* is a deficiency, or

⁶⁰ *Id.* at 8, 9, 29. In the case of one partnership, Traveler’s Aid Housing, L.P., “profits and losses are allocated 0.01% to the general partner and 99.99% to the investor limited partner.” For both Kingstown partnerships, profits are “allocated 0.01% to the general partner, 99.98% to the investor limited partner, and 0.01% to the special limited partner.”

⁶¹ See, e.g., Kingstown Crossings, L.P. Certificate of Limited Partnership, STATE OF RHODE ISLAND AND PROVIDENCE PLANTATIONS (2009), <https://perma.cc/WTB9-6EHJ>.

⁶² 2023 Audit, *supra* note 40, at 29.

⁶³ Notably, the land for the Kingstown developments was purchased from the Department of the Air Force in 2010 for \$99,000. City of North Kingstown, R.I., Land Book 2495, 247. Senator Jack Reed’s efforts were described as vital to securing the land for Crossroads. Chris Church, *Work Begins on Kingstown Crossing Affordable Housing*, THE INDEPENDENT (Aug. 19, 2010), <https://perma.cc/2J8U-RW7M>.

⁶⁴ KAHN, LITWIN, RENZA & CO., LTD., *Crossroads Rhode Island and Subsidiaries Consolidated Financial Statements and Supplementary Information Year Ended December 31, 2021* at 42 (2022), <https://perma.cc/FC8A-KFRC>.

⁶⁵ See App’x A, § A.

⁶⁶ KAHN, LITWIN, RENZA & CO., LTD., *Crossroads Rhode Island and Subsidiaries Consolidated Financial Statements and Supplementary Information Year Ended December 31, 2020*, at 34 (2021), <https://perma.cc/P7NE-ZB8Y>.

combination of deficiencies, in internal control, such that there is a reasonable possibility that a material misstatement of the Organization's consolidated financial statements *will not* be prevented or detected and corrected on a timely basis.⁶⁷

These findings seem to raise serious questions about the accuracy of Crossroads' financial statements over time, especially during the year it purchased Mr. Marcello's property.

D. Public reports about Crossroads' substandard facilities.

Finally, readily available open-source research suggests that Crossroads' homeless shelters are substandard.⁶⁸ For example, a story in a homeless-operated newspaper "quotes a dozen homeless individuals who cite deplorable conditions at Crossroads, with commentary on everything from safety issues tied to drug dealing to broken facilities for the disabled."⁶⁹ "One man said, ... 'it used to be a no-brainer where to buy my drugs, just go to Crossroads!'"⁷⁰ Similarly, a local community group published a report criticizing Crossroads in strong terms for allowing routine violence and open drug use at its facilities.⁷¹

It shocks the conscience that some of our nation's most vulnerable, the homeless, are subject to living under such poor conditions. An organization whose mission is to care for the homeless must provide them with safe, clean housing, and its board must proactively exercise its fiduciary duty and monitor the facilities to ensure the same.

Crossroads has received over \$120 million in public funding since Judge McConnell's became a Board member. Given the public reporting about Crossroads' shelters, Judge McConnell, at the very least, held an affirmative duty to investigate the shelters to ensure against the presence of substandard conditions. Whether Judge McConnell investigated or not warrants a thorough inquiry.

III. Conclusion

Crossroads' annual filings confirm Judge McConnell has had a fiduciary obligation to the organization for decades. He was first seated on the Board of Directors in 2006, was on the Board when he was nominated and confirmed to the federal judiciary in

⁶⁷ *Id.* at 33 (emphasis in original).

⁶⁸ *War of Words Erupts Over Investigation of Crossroads by Homeless Newspaper*, GOLOCALPROVNEWS (June 17, 2019), <https://perma.cc/VH4K-ZC2K>.

⁶⁹ *Id.*

⁷⁰ *Id.*

⁷¹ S. PROVIDENCE NEIGHBORHOOD ASS'N, *Report: Alarming Human Safety Concerns at Crossroads*, UPRISERI (May 17, 2023), <https://perma.cc/UA2U-7GQ7>; see also *Man Stabbed After "Smoking Narcotics" at Crossroads Shelter in Providence*, GOLOCALPROVNEWS (Apr. 09, 2024), <https://perma.cc/AWV8-P897>.

2013, held the position of Chairman of the Board from 2011 to 2021, remained on the Board in 2022 and 2023, and was also listed as “chair-emeritus” on the Crossroads website until that page was scrubbed in March 2025. He may continue to hold a seat.

Regardless of whether Judge McConnell still sits on the Board, there cannot be any doubt Judge McConnell has an interest in the continuation of Crossroads’ operations more than one of general philanthropy.

Crossroads has received significant amounts of federal funding, both directly and through the state of Rhode Island, a Plaintiff State in *New York v. Trump*. Indeed, during Judge McConnell’s tenure on the Board of Directors, Crossroads received tens of millions of dollars in government funding. Nevertheless, despite his long-time entanglement with this federally funded organization, Judge McConnell did not recuse himself from *New York v. Trump*. His failure to do so may violate federal law and judicial canons of ethics, raises profound concerns about Judge McConnell’s judgment as an officer of the court, and his fitness for the bench.

Moreover, it appears that Crossroads Rhode Island may have been financially mismanaged during Judge McConnell’s Board tenure. Indeed, he had a duty to ensure the organization’s compliance with the law. While the judicial canons allow participation as a fiduciary and officer of organizations like Crossroads, they strongly caution that it is “necessary for a judge regularly to reexamine the activities of each organization with which the judge is affiliated *to determine if the judge’s continued association is appropriate.*”⁷² Crossroads’ apparent practice of self-dealing with a board member tied to historic public corruption, its purchases of property at prices significantly higher than their fair market value, violations of federal reporting obligations, and opaque profit allocation are all factors that should have caused Judge McConnell 1) to conduct greater oversight of the organization and 2) to determine whether his continued association with the organization was appropriate. Apparently, he failed to do so on both accounts.

For the foregoing, reasons, we ask that you take all appropriate action to resolve these issues. Thank your attention to this matter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Andrew J. Block", written over a horizontal line.

Andrew J. Block

America First Legal Foundation

⁷² JUD. CONF. OF THE U.S., *supra* note 17, Canon 4B cmt. (emphasis added).



APPENDIX

Crossroads Board Member Matthew Marcello's Problematic History of Involvement with Public Corruption and Embezzlement Scandals

A. The Crossroads Parcels, Marcello, and the Governor DiPrete Bribery Scandal

Providence public records show that Marcello's Hotel Associates LLC, and its predecessor, the Hotel Associates Realty Trust, owned the 94 Summer and 371 Pine parcels between at least 1988 and 1995. This was the same time Marcello was accused of participating in a corruption scheme that resulted in the former Governor of Rhode Island Edward D. DiPrete pleading guilty to bribery, extortion, and racketeering.⁷³ Governor DiPrete was subsequently sentenced to prison.⁷⁴ Following the scandal, the owners of an office building, a husband and wife that had lost out a public contract to Marcello, filed *Lares Group, II v. Tobin*, a civil action under the Racketeer Influenced and Corrupt Organizations Act ("RICO").⁷⁵

Marcello was a defendant in *Lares Group, II*. Marcello also served as a trustee of the Pine Street Realty Trust and a general partner of Pine Street, LP ("Pine Street Entities") which were also named defendants.⁷⁶ Other partners in the Pine Street Entities included several of Governor DiPrete's top aides.⁷⁷ The plaintiffs in *Lares Group, II* alleged that Marcello was a member of a syndicate that owned the Pine Street Entities and bribed the Governor to award state lease contracts to the 144 Pine Street Jesse Metcalf Building ("Metcalf Building") in exchange for campaign contributions and a share in the Pine Street Entities.⁷⁸ The lawsuit alleged, "Marcello negotiated

⁷³ See generally, Paul Caranci & Thomas Black, *Scoundrels: Chapter 3 Part 2, Brusini Suffers Personal and Business Setbacks*, GOLOCALPROV NEWS (Jan. 09, 2017), <https://perma.cc/LZY5-YYL6>; *Lares Group*, *infra* note 75.

⁷⁴ *Id.*

⁷⁵ 47 F. Supp. 2d 223 (D.R.I. 1999) (dismissed for expired statute of limitations), *aff'd*, 221 F.3d 41 (1st Cir. 2000).

⁷⁶ *Id.* at 226.

⁷⁷ Scott MacKay, *State to Move 95 Workers Out of Defective Building*, PROVIDENCE J., Sept. 04, 1993, at A3 ("However, Marcello said two others close to DiPrete, Henry Fazzano ... who served as DiPrete's Chief of Staff, and Rodney Brusini...once DiPrete's top political fund-raiser, are still partners in the building...The federal government is now demanding penalties of up to \$6.3 million from the state because of multiple violations of state and federal bidding laws.").

⁷⁸ *Id.*; Caranci & Black, *supra* note 73; see also note 91, *infra*.

the lease that ... the state approved over the vociferous objections of [Rhode Island Government] staffers.”⁷⁹

In the same year as the disputed contract bidding—at the center of the *Lares Group, II* lawsuit—occurred, Marcello and one of the other defendants, Joseph DiBattista, formed the Hotel Associates Realty Trust (“HART”).⁸⁰ Records confirm that HART was a grantor to the Pine Street Realty Trust or a grantee from it on several occasions.⁸¹

Additionally, HART, the Pine Street Group, and other Marcello-connected entities received millions of dollars allegedly embezzled from a bank by Joseph Mollicone, Jr., whose disappearance triggered the Rhode Island Banking Crisis.⁸² Marcello took over Mollicone’s business entities following his disappearance and was the “public face” of the group’s attempt to preserve a lease with the state’s Department of Treasury.⁸³

In 1995, HART conveyed land to Hotel Associates, LLC, which included all the parcels that were later sold to Crossroads.⁸⁴ In 1996, HART’s mortgage for these parcels was assigned to Jesse Metcalf Associates, LLC, the owner of the Metcalf Building at the center of the bribery scandal.⁸⁵ The same year, Hotel Associates LLC signed a lease and granted a parking easement to Jesse Metcalf Associates, LLC.⁸⁶ The exhibits to the easement describe the parcels later sold to Crossroads.⁸⁷ Joseph DiBattista signed as President of Hotel Associates, LLC, and Marcello signed as Vice-President of Jesse Metcalf Associates.⁸⁸

When Governor DiPrete’s trial entered its preliminary phases in early 1996, the forgoing and a flurry of other property transfers and transactions are recorded with the

⁷⁹ Dean Starkman, *The Done Deal: How the State Surrendered a Sweetheart Lease to Joe Mollicone and His Well-Placed Partners*, PROVIDENCE J., May 19, 1991, at A10.

⁸⁰ City of Providence, R.I., Land Book 3301, 125–133.

⁸¹ City of Providence, R.I., Land Books 1736, 98; 2031, 255; 3351, 214.

⁸² Dean Starkman, *The Money Trail May Be Tough, Costly to Track * Almost From the Day Joseph Mollicone Disappeared, the Question Has Been: What Happened to the Money?*, PROVIDENCE J., Apr. 25, 1993, at A6, <https://perma.cc/6NQY-6JS7> (\$511,000 to Hotel Associates; \$3,512,000 to Pine Street Entities; etc.).

⁸³ Tracy Breton, *Solomon Sues to Cancel Mollicone Lease*, PROVIDENCE J., Feb. 26, 1991, at E3 (“When asked who signed Mollicone’s name to the discharge papers — Mollicone’s signature looks significantly different from the one that appears on the lease with Solomon — Marcello said that DiBattista signed Mollicone’s name to the discharge ‘at Mollicone’s direction’ before Mollicone disappeared”).

⁸⁴ City of Providence, R.I., Land Book 3074, 177.

⁸⁵ City of Providence, R.I., Land Book 3301, 125.

⁸⁶ City of Providence, R.I., Land Book 3301, 136–54.

⁸⁷ *Id.* at 149.

⁸⁸ *Id.* at 147.

City in a manner that raises questions whether they were done in an attempt to conceal possible wrongdoing.⁸⁹ Since the 1980s, parking leases and easements have been maintained on the property sold to Crossroads, purportedly for the benefit of tenants of the Metcalf Building, which is a twenty-minute walk away and on the other side of the I-95 interstate. In 2005, the monthly rent for these parking spots was \$11,462.⁹⁰ This information raises additional red flags and concerns, and additional investigation is necessary to determine whether these parking leases were used to launder money from state tenants in the Metcalf Building, like the kickbacks promised to Governor DiPrete. The Rhode Island Department of Children, Youth, & Families is the current tenant.⁹¹

B. Public records suggest Marcello's business was in trouble immediately prior to the acquisitions by Crossroads.

Additionally, in 2017, Marcello applied to the City Planning Commission to subdivide the 317 Pine lot into two parcels: 371 Pine Street and 355 Pine Street. Immediately prior, he terminated the parking easement, which had existed in several forms for nearly forty years.⁹² The stated purpose for this subdivision was to facilitate the construction of a Holiday Inn Express on 355 Pine.⁹³ The hotel was expected to open in 2018.⁹⁴ 355 Pine was then conveyed to Providence Hospitality, LLC for \$750,000 on December 20, 2017.⁹⁵ The same day, Providence sold 355 Pine to Cedar Rock, LLC, a New York Corporation, for \$1.5 million.⁹⁶

⁸⁹ These transactions include the transfer of a \$1.5 million promissory note from Hotel Associates Realty Trust to Hotel Associates, LLC via intermediary Virginia corporations and Delaware partnerships, the termination of mortgages and easements linking Marcello companies with companies involved in the DiPrete scandal, and property transfers from old Marcello companies to new ones, all in a several month span. *See, e.g.*, City of Providence, R.I., Land Books 3303, 288–300 (April 1996 promissory note transfer via Delaware partnership and Virginia corporation); 3303, 302–05 (April 1996 temporary termination of parking easements and leases on Crossroads parcels for the benefit of building at center of bribery scandal); 3351, 214 (June 1996 termination of mortgage linking Pine Street Realty Associates, LP and Hotel Associates Realty Trust); 3301, 125 (March 1996 mortgage assignment from Hotel Associates Realty Trust to Marcello-linked Jesse Metcalf Associates, LLC); 3301, 134 (same-day discharge of mortgage); 3074, 177 (January 1995 transfer of property from Hotel Associates Realty Trust to newly-formed Hotel Associates, LLC); *see also* Breton, *supra* note 83.

⁹⁰ City of Providence, R.I., Land Book 7701, 84–101.

⁹¹ 101 Friendship St, Providence, RI, GOOGLE ST. VIEW, <https://perma.cc/K7CD-3HCV>; *Contact us*, DEPT. OF CHILD., YOUTH, & FAMS., <https://perma.cc/2439-T7B3>. While the building currently uses the 101 Friendship address, it is taxed as 140 Pine. *Compare* 140 Pine St, City of Providence, R.I., Tax Assessment Records, <https://perma.cc/6VDR-VBBX>, *with* City of Providence, R.I., Land Book, *supra* note 90, at 100, *and* City of Providence, R.I., Tax Plat 020 Lot 378, <https://perma.cc/86RW-SJKF>.

⁹² City of Providence, R.I., Land Book 12488, 145.

⁹³ John G. Hill, III, *Hotel Associates LLC Gain's [sic] Approval for Development of 91-Room Holiday Inn Express in Providence, RI*, HOTEL ONLINE (Oct. 26, 2017), <https://perma.cc/4BMN-LLRQ>.

⁹⁴ Jacqueline Tempera, *5 New Providence Hotels Could Open in 2018 + map*, PROVIDENCE J. (Feb. 4, 2017), <https://perma.cc/8VSX-23QX>.

⁹⁵ City of Providence, R.I., Land Book 11915, 18–20.

⁹⁶ City of Providence, R.I., Land Book 11915, 31–33. *See Grover v. Sattar*, No. 18-2402, 2019 WL 835686 (E.D.N.Y. Dec. 16, 2019) (discussion of Cedar Rock's questionable real estate practices).

Chart A⁹⁷



But the hotel never opened. In 2019, Marcello applied to the City Planning Commission to extend his approval to build the hotel until June 30, 2020, which the Commission granted.⁹⁸ He then appeared before the November 24, 2020, meeting of the Providence Zoning Board of Review, accompanied by representatives of Crossroads.⁹⁹ They jointly sought a permit to use the vacant building located at 371 Pine as a homeless shelter. In the 1990s, this building was the “print shop” of the Rhode Island Department at the center of the DiPrete scandal.¹⁰⁰ There is no suggestion in the resolution that the Board was informed that Marcello was a director of Crossroads. Records at the time show he owed significant property taxes on all three properties.¹⁰¹ His permit was extended for the final time allowed by statute on May 25, 2021.¹⁰² Eight months later, he sold 94 Summer to Crossroads.

⁹⁷ City of Providence, R.I., Tax Plat 024, <https://perma.cc/YK7J-MJ57>.

⁹⁸ City of Providence, R.I., Land Book 12322, 117.

⁹⁹ City of Providence, R.I., Land Book 12919, 23–26.

¹⁰⁰ Tracy Breton, *Judge Orders R.I. To Pay Rent, For Now, on Controversial Offices*, PROVIDENCE J., May 20, 1994, at B12.

¹⁰¹ City of Providence, R.I., Land Book 12945, 109.

¹⁰² Minutes of the Providence, R.I., City Planning Commission (May 21, 2021), <https://perma.cc/YC3Y-NTYM>.